

ORIGINAL

DANIEL JOSEPH WIK,
Claimant,

v.

DONALD CUNNINGHAM in his official, individual,
and human capacity, BARRY MILLER in his official,
individual, and human capacity, HUGH MCCARTNEY in
his official, individual, and human capacity,
RACHAEL MILLSPAUGH in her official, individual,
and human capacity, JOSEPH NENNI in his official,
individual, and human capacity, MICHELE SMITH in
her official, individual, and human capacity,
DONALD KUNEGO in his alleged official,
individual, and human capacity, ROBERT
SWAPCEINSKI in his alleged official, individual,
and human capacity,
Respondents.

50(h) Hearing in the Above-Titled Matter

Sworn Testimony of:

Donald Joseph Wik

Location: Bergen Town Hall
10 Hunter Street
Bergen, New York 14416

Date: January 19, 2011

Time: 10:00 a.m.

Reported By: JENNIFER A. MINNEHAN
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1 DANIEL JOSEPH WIK - BY MR. FLYNN

2 If you need to take a break at any time,
3 you can do that. I just ask that you answer any
4 question that is pending before we engage in a break.

5 A. Okay.

6 Q. And if you don't understand my question,
7 let me know; I'll rephrase it. Otherwise, I'll assume
8 that you both heard and understood it. Fair enough?

9 A. Yes.

10 Q. I'll start with some background
11 information on you and then we'll get to the
12 allegations contained in your Notice of Claim.

13 Do you still live at 659 Averill Avenue?

14 A. Since there's pending litigation, I'm
15 going to choose not to be compelled to be a witness
16 against myself by answering that. I will receive all
17 correspondence there.

18 Q. Mr. Wik, this is a 50(h) Hearing, which
19 you've elected to record on your own, which is fine.
20 But you are compelled to answer questions that are put
21 to you.

22 You instigated this action with the Notice
23 of Claim. Pursuant to General Municipal Law, you'll
24 answer all questions that are pertinent to your Notice
25 of Claim.

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2 So your address, could you state for the
3 record?

4 A. I receive mail care of 659 Averill Avenue,
5 Rochester, New York.

6 Q. What does that mean?

7 A. That is the place that I receive all of my
8 correspondence at.

9 Q. Where do you reside?

10 A. Please define the word "reside."

11 Q. Where do you live?

12 A. Please define the word "live."

13 Q. Where do you go to bed at night?

14 A. Various locations.

15 Q. Such as?

16 A. Erie County, Monroe County, Genesee
17 County.

18 Q. I need addresses.

19 A. I don't know all the addresses.

20 Q. Okay. Give me some.

21 A. Can I use a laptop to pull up the
22 addresses?

23 Q. You may have documents that might refresh
24 your recollection, but I need to know strictly what is
25 the basis of your recollection. I only want to know

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2 A. Sometimes I drywall, sometimes I paint,
3 sometimes I do roofing.

4 Q. Okay. And when you do that work, are you
5 reimbursed for your time and your labor?

6 A. Sometimes.

7 Q. And are there times that you're not?

8 A. Yes.

9 Q. Is that charitable work on your behalf?

10 A. You may call it that.

11 Q. What do you call it?

12 A. I can't call it anything.

13 Q. When you provide services or labor for
14 someone and you're not receiving anything in return,
15 you don't call that anything? You do that because
16 you're a nice guy? Because you owe somebody money?

17 A. For various reasons. One may say it's
18 charitable, another might say it's just, you know,
19 trading off. I do that at times too.

20 Q. Do you file New York State or Federal tax
21 returns?

22 A. I choose not to answer that question, and
23 the fact -- I choose not to testify against myself.

24 Q. So that means no, right?

25 A. I didn't say that. I choose not to give

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1 DANIEL JOSEPH WIK - BY MR. FLYNN

2 testimony against myself.

3 Q. Did you file tax returns for the calendar
4 year 2009?

5 A. I choose not to give testimony against
6 myself.

7 Q. Did you file tax returns in 2008?

8 A. I choose not to give testimony against
9 myself.

10 Q. What about 2007, did you file tax returns?

11 A. I choose not to give testimony against
12 myself.

13 Q. Okay. Any time from the time you
14 graduated college -- or finished college, anyway --
15 around 1994, did you ever file a New York State or
16 Federal tax return?

17 A. I choose not to give testimony against
18 myself.

19 Q. I see. Do you have a valid New York State
20 driver's license?

21 A. I don't believe so.

22 Q. Have you ever applied for one from the New
23 York State Department of Motor Vehicles?

24 A. I don't believe so.

25 Q. Have you ever possessed a driver's license

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